

**§318.13-4 Conditions governing the issuance of certificates or limited permits.**

Certificates or limited permits may be issued for the movement of articles allowed movement in accordance with the regulations in this subpart under the following conditions:

(a) *Certification on basis of inspection or nature of lot involved.* Regulated articles designated in §318.13-2(b) may be certified when they have been inspected by an inspector and found apparently free from infestation and infection, or without such inspection when the inspector determines that the lot for shipment is of such a nature that no danger of infestation or infection is involved.

(b) *Certification on basis of treatment.* Fruits, vegetables, and other products designated in §318.13, which are not listed in §318.13-2(b) and for which treatments may be approved by the Administrator of the Animal and Plant Health Inspection Service, may be certified if such treatments have been applied under the observation of an inspector in accordance with administratively approved procedure and if the articles were handled after such treatment in accordance with conditions prescribed in a compliance agreement executed by the applicant for the certificate or were handled after such treatment under such supervision of an inspector as the inspector may require. Any treatment that may be approved must be applied at the expense of the shipper, owner, or person in charge of such articles. The Department of Agriculture or its inspector will not be responsible for loss or damage resulting from any treatment prescribed or supervised.

(c) *Limited permits.* (1) Limited permits may be issued by an inspector for the movement of noncertified regulated articles designated in §318.13-3(b) of this subpart.

(2) Limited permits may be issued by an inspector for the movement of fruits, vegetables, or other products otherwise prohibited movement under this subpart, if the articles are to be moved in accordance with §318.13-17 of this subpart.

(3) Except when the regulations specify an inspector must issue the

limited permit, limited permits may be issued by a person operating under a compliance agreement.

(d) *Compliance agreements.* As a condition of issuance of a limited permit under paragraph (c)(3) of this section, or a certificate under paragraph (b) of this section for the movement of regulated articles for which a compliance agreement is required, the person applying for the permit or certificate must sign a compliance agreement stipulating that he will use all such permits or certificates issued to him in accordance with the provisions thereof and of the compliance agreement; will maintain at his establishment such safeguards against the establishment and spread of infestation and infection and comply with such conditions as to the maintenance of identity, handling (including post treatment handling), and interstate movement of regulated articles under such permits or certificates and the cleaning and treatment of means of conveyance and containers used in such movement of the articles, as may be required by the inspector in each specific case to prevent the spread of infestation or infection; and will allow inspectors to inspect the establishment and operations thereof.

(Approved by the Office of Management and Budget under control number 0579-0088)

[33 FR 14622, Oct. 1, 1968, as amended at 36 FR 24917, Dec. 24, 1971; 52 FR 8864, Mar. 20, 1987; 55 FR 38979, Sept. 24, 1990; 57 FR 31307, July 15, 1992; 58 FR 7959, Feb. 11, 1993; 59 FR 48992, Sept. 26, 1994; 59 FR 66641, Dec. 28, 1994; 68 FR 5802, Feb. 5, 2003]

**§318.13-4a Administrative instructions authorizing the movement from Hawaii of frozen fruits and vegetables.**

(a) The Administrator of the Animal and Plant Health Inspection Service, pursuant to the authority contained in §§318.13-2(b) and 318.13-4(b), approves the process of quick freezing in accordance with part 305 of this chapter as a treatment for all fruits and vegetables described in §318.13, except as otherwise provided in paragraph (c) of this section. Such frozen fruits and vegetables may be certified for movement from Hawaii into or through any other

Territory, State, or District of the United States.<sup>1</sup>

(b) The inspector in Hawaii shall determine that such fruits and vegetables are in a satisfactory frozen state before issuing a certificate. The inspector on the mainland will release the shipment on the basis of the certificate issued in Hawaii.

(c) The movement from Hawaii of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack, in the area of origin, by plant pests that may not, in the judgment of the Administrator of the Animal and Plant Health Inspection Service, be destroyed by freezing.

[24 FR 10777, Dec. 29, 1959, as amended at 55 FR 38979, Sept. 24, 1990; 70 FR 33323, June 7, 2005]

**§ 318.13-4b Administrative instructions; conditions governing the interstate movement from Hawaii of certain fruits for which treatment is required.**

(a) *General restrictions.* Fruits listed in this section may only be moved interstate from Hawaii in accordance with this section or in accordance with other applicable sections in this subpart.

(b) *Eligible fruits.* The following fruits may be moved interstate from Hawaii if, prior to interstate movement, they are inspected for plant pests by an inspector and are then treated for fruit flies under the supervision of an inspector with a treatment prescribed in part 305 of this chapter: Avocados, bell peppers, carambolas, eggplants, Italian squash, litchi, longan, papayas, pineapples (other than smooth cayenne), rambutan, and tomatoes.

(c) *Subsequent handling.* All handling of fruits subsequent to treatment in Hawaii must be carried out under the supervision of an inspector and according to the inspector's instructions.

(d) *Destination restrictions.* Litchi and longan that are moved interstate from Hawaii under this section may not be moved into Florida due to the litchi rust mite (*Eriophyes litchi*). Cartons

<sup>1</sup>Applications for certificates to move frozen fruits and vegetables from Hawaii under this subpart may be made to Plant Protection and Quarantine Programs, P.O. Box 9067, Honolulu, HI 96820.

used to carry such fruits must be stamped: "Not for movement into or distribution in FL."

(e) *Costs and charges.* All costs of treatment and any post-treatment safeguards prescribed by an inspector must be borne by the owner of the fruits or the owner's representative. The services of an inspector during regularly assigned hours of duty and at the usual place of duty are furnished by APHIS without charge.

(f) *Department not responsible for damages.* Treatments prescribed in part 305 of this chapter are judged from experimental tests to be safe for use with the fruits listed in paragraph (b) of this section. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment, or because of safeguards required by an inspector.

[67 FR 41157, June 17, 2002, as amended at 70 FR 33323, June 7, 2005]

**§ 318.13-4c Administrative instructions approving methyl bromide fumigation as a condition for certification of tomatoes for movement from Hawaii.**

The Administrator of the Animal and Plant Health Inspection Service hereby approves methyl bromide fumigation, applied in accordance with the provisions of this section, as a treatment for tomatoes from Hawaii. Tomatoes treated and handled as provided in this section may be certified for movement from Hawaii to other parts of the United States.

(a) *Approved fumigation.* (1) The approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure, in a fumigation chamber which has been approved for that purpose by the Animal and Plant Health Inspection Service. The dosage shall be applied at the rate of 2 pounds per 1,000 cubic feet for 3½ hours at 70 °F. or above.

(2) Tomatoes to be fumigated may be individually wrapped in gas-permeable tissue paper and packed in standard slatted tomato lugs or containers similarly vented. The fumigation chamber shall not be loaded to more than two-thirds of its capacity. The 3½-hour exposure period shall begin when all the fumigant has been introduced into the